

The Nexus Between Child Maltreatment and Domestic Violence

A View From the Court

Mary Jones has three children who are 4, 6, and 9 years old. The Jones family was referred to the child welfare system shortly after Mary's hospitalization for treatment of serious injuries. Even though her husband had inflicted her injuries, Mary told the emergency room staff that she had accidentally tripped and fallen down the stairs. The following day, her son's teacher observed suspicious bruises on the 9-year-old and initiated a child abuse investigation that led to the children's removal from their home.

Mary's family is not unlike many that end up in the nation's dependency courts. Despite the fact that Mary had not struck her children, the child welfare system deemed her an unfit mother because of her apparent failure to protect her children from their father. Yet Mary claimed adamantly that she had tried to protect the children. Indeed, her futile attempts to protect them from their father's violent outbursts extended as far as imposing an unbreakable rule in her home: the children were forbidden to remove their shoes at home—even when they went to bed. Ordinarily, child protection agents would have regarded Mary's bizarre "shoes-on" rule as evidence of her impaired judgment, possibly even as a sign of mental illness. Rarely would anyone in the child protection system have inquired into the reason for Mary's shoes-on rule, much less assumed that she had imposed the rule for her children's benefit or protection. Mary simply would have been held responsible for her failure to protect her children from their father's abuse.

In Mary's case, that would have been a mistake. By making the children keep their shoes on at all times, Mary was preparing them to escape from home at a moment's notice—that is, the moment their father became violent. Conceived carefully and practiced in much the same way schools practice fire drills, Mary's plan called for the children to run next door and alert the neighbors so they would call the police. The 9-year-old was to make sure that he took his younger siblings out of the house with him. That way, Mary reasoned, the children would avoid becoming targets of their father's drunken rage. They would be safe from harm. Every night after the children had gone to bed—and only after their father had fallen harmlessly asleep—Mary would go into the children's rooms and remove their shoes.

Mary is like thousands of other women in the nation's child welfare system: simultaneously victimized by domestic violence and at risk of losing her children for having failed to protect them from her batterer. Despite well-documented evidence that battered women are at greater risk of harm from their abusers during separation,¹ the child protection system's traditional approach has been to require battered women to leave their abusers immediately or face the loss of their children.² In such a system—one that does not include reaching out to battered mothers, building relationships with them, and providing support and resources—efforts are rarely made to determine whether children from violent homes can be protected and yet spared the trauma of removal from their mother's love and care. All too often, child protection



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In a pioneering effort led by the judiciary, key systems and agencies have joined together to address the phenomenon of co-occurring domestic violence and child maltreatment. The Dependency Court Intervention Program for Family Violence (DCIPFV) employs a two-pronged strategy to enhance the safety and well-being of children. It conducts comprehensive assessments of children to identify and

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respond to their needs, and it helps battered mothers recover from their own victimization and regain their ability to protect themselves and their children. Domestic violence victim advocates help battered women navigate the complicated child welfare and court systems and obtain other remedies, such as civil protection orders and community resources. Working cooperatively toward the same goal—safety—the advocates and child protection agents reconcile objectives that they previously perceived as conflicting. As the child protection system focused exclusively on children's safety and well-being and victim advocates focused exclusively on battered women's safety and well-being, these groups came to see their objectives as inherently clashing. By shifting their attention to the safety of both abused children and their battered mothers, however, these service providers have overcome the previous barriers to cooperation. The recognition of both constituencies' compelling need for safety has led to joint efforts to increase children's safety and well-being by increasing the safety and autonomy of their battered mothers as well as efforts to hold the perpetrators accountable for their violence. ■

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agencies attempt to enhance child safety by removing children from the nonabusive but victimized parent rather than helping the victimized parent to become safe and holding the batterer accountable for violent behavior.

ABUSED CHILDREN FROM VIOLENT HOMES

Children like Mary's come under the jurisdiction of a juvenile dependency court. They have been abused, neglected, abandoned, adjudged dependent, and usually removed from the parents who have hurt them. Every day, dependency court employees witness the brutality inflicted on society's youngest members. Children are beaten, bitten, maimed, burned, raped, starved, neglected, and abandoned by the people who are supposed to love them the most. The dependency court is usually the only institution to address the maltreatment because the criminal justice system rarely prosecutes their parents. Because of the increased risk of harm to children in cases of co-occurring intimate partner violence, dependency courts have both an opportunity and an obligation to address that violence when such cases come before them.

The number of children referred to child protection agencies nationwide—almost 3 million a year—is staggering.³ The most serious cases result in an adjudication of dependency, pursuant to which children are removed from their homes and the court assumes the legal role of parent. Approximately half a million children each year enter the jurisdiction of the courts; this figure represents nearly 2 percent of the children in every community.⁴ Often, these children have no social supports. No caring adults are available to guide them when their parents have failed. These children do not know what it feels like to be safe and nurtured. Their parents are often addicted to drugs and may engage regularly in criminal behavior. If they are poor (as are one-fourth of Miami's children), they probably live in environments where daily violence—both domestic and community—is pervasive.⁵ Given Miami's ethnically diverse population, immigration status can also factor into a battered mother's reluctance to seek assistance from the authorities there. Miami is an urban community of approximately 2 million people, 46.5 percent of whom speak Spanish as their primary language. Other minorities include African Americans (20.5 percent), Haitian immigrants, and Caribbean Islanders.⁶ The Miami courts have recognized that children from many of these families suffer cumulative disadvantages and that even their basic needs overwhelm the system.

The justice system as a whole is becoming more and more aware of the shocking amount of violence in the lives of these children. An emerging literature now estimates that between 30 and 60 percent of the children who witness domestic violence may also suffer from child maltreatment.⁷ Most of the early research on this phenomenon consisted of surveys of battered women in shelters showing a 50 percent rate of co-occurring child maltreatment and domestic violence.⁸ These studies were followed by efforts to understand the risk of death in such very violent homes. A New York investigation indicated that, between 1990 and 1993, a documented history of domestic violence was present in 55 percent of child homicide cases. These figures were similar to the results of other studies throughout the United States.⁹

MIAMI'S DEPENDENCY COURT INTERVENTION PROGRAM FOR FAMILY VIOLENCE

Given the complex issues faced by families struggling with co-occurring domestic violence and child maltreatment, the task of helping families like Mary's in the

context of the child welfare system is a difficult one. The question whether mothers like Mary are victims themselves is typically not considered relevant in the child protection system. Its relevance has, however, been demonstrated in research indicating that children face an increased risk of harm when their mother is battered by her domestic partner.¹⁰ If child protection is to be effective, the system responsible for its provision must recognize that crucial fact. In addition, it must acknowledge the importance and feasibility of court-initiated programs to identify co-occurring domestic violence and child maltreatment, to assess the needs of children who are doubly victimized, and to provide them with supportive services.

The Miami-Dade County Dependency Court Intervention Program for Family Violence (DCIPFV) was designed to address these issues. As a result of the efforts of the DCIPFV, Mary was identified as a victim of domestic violence and offered comprehensive case management services by DCIPFV staff advocates. DCIPFV psychologists examined Mary's children to assess their cognitive, emotional, and developmental progress so that early intervention services could help prevent long-term difficulties. This unique initiative is a national demonstration project funded by the Violence Against Women Office of the U.S. Department of Justice.

Miami's DCIPFV is the first in the nation in which the courts address the co-occurrence of child maltreatment and domestic violence. Since its inception in 1997, the DCIPFV has worked to advance within the child welfare system the principle that the goals of protecting maltreated children and protecting their battered mothers are not always in conflict, but instead are often the same.¹¹ The program has incorporated several specific goals. First, it tries to build awareness within the child welfare system that children suffer an increased risk of harm when domestic violence and child maltreatment co-occur. Second, it identifies battered mothers within the child welfare system and provides outreach-based advocacy services for those mothers both before removal of their children in response to child abuse allegations¹² and after the removal of the children and assignment of their case to the cooperating division of the dependency court.¹³ Third, the DCIPFV attempts to describe the effects of multiple forms of maltreatment and violence on children and to coordinate treatment for their mental health needs. Fourth, the program aims to facilitate and enhance a coordinated community response to the co-occurrence of domestic violence and child maltreatment. Finally, it conducts a rigorous evaluation of both its processes and its outcomes.¹⁴

To fulfill its mission, the DCIPFV has adopted a dual approach. First, it reaches out to battered mothers and provides supportive services so they can recover from the

effects of their abuse and regain their ability to protect themselves and their children. Second, it attempts to understand, through comprehensive assessment, the impact on and needs of abused children exposed to interparental violence.

SUPPORTIVE SERVICES FOR BATTERED MOTHERS

The DCIPFV has provided Mary and hundreds of mothers like her with advocates cross-trained in domestic violence and child maltreatment who discreetly approach mothers after child detention hearings, confidentially ask them whether they themselves are abused, and then offer voluntary, confidential, and comprehensive services to battered mothers. The University of Miami review board for the protection of human subjects approved the DCIPFV's carefully developed advocacy protocol. Mothers are fully informed of the nature and risks of the services before they consent to participate in the program. The advocacy services are based on the idea that if a battered mother's use of resources is facilitated and her recovery is encouraged, she will regain the ability to protect and care for herself and her children. From safety planning and counseling to crisis intervention and court accompaniment, services are comprehensive and tailored to meet the individual needs of each battered mother and her children.

The protection of confidentiality is an important element of the program. When a battered mother works with a DCIPFV court-based advocate, neither the court nor the child protective system knows whether she is a victim of domestic violence unless she shares that information herself or asks her advocate to do so. Likewise, the batterer does not know that his partner has disclosed her victimization. To maintain confidentiality while they assist battered mothers working to fulfill case plans successfully and be reunited with their children, advocates may meet with their clients at neighborhood schools, libraries, or other safe locations to strategize or exchange information.

The DCIPFV also collaborates with one of the child protection investigation units of Florida's Department of Children and Families in an effort to prevent removal of children from their homes, prevent repeat calls to child abuse hotlines, and prevent the future victimization of children. During investigations spurred by calls to child abuse hotlines, child protection workers ask mothers about their safety and refer battered mothers to DCIPFV advocates for voluntary, intensive case-management services. In these cases, as in court-based cases, DCIPFV advocates provide crisis intervention, emotional support, safety planning, counseling on the dynamics of domestic

violence, and access to substance abuse treatment, mental health services, emergency shelter, and other community resources. They also help battered mothers navigate the complicated justice and social systems as they strive to achieve safety for themselves and their children. When working with mothers prior to court involvement, advocates and child welfare workers may communicate carefully, respecting the needs of mothers and children, to coordinate better the efforts to prevent judicial intervention and additional family violence.

ASSESSING CHILDREN FOR EXPOSURE TO VIOLENCE

In 1997, the DCIPFV became the first judicial-research partnership in the country to begin to quantify the co-occurrence of child maltreatment and domestic violence in the lives of children and families under the jurisdiction of the dependency court. Understanding the needs of maltreated children in the dependency system is critically important. Lack of information about these children's lives and needs significantly hampers the effectiveness of the court's fulfillment of its obligation to protect the maltreated child.

In Miami, judges had previously recognized the harmful effects on children of domestic violence exposure. The team that designed Miami-Dade County's domestic violence court in 1992 made special efforts to respond to the needs of these children. The court was child-oriented from its inception. It included, for example, a parent-education component, delivered from the bench, about the effects of exposure to violence on children. Even so, not until DCIPFV psychologists began assessing dependent children for exposure to violence was the magnitude of the crossover between domestic violence and child maltreatment fully revealed. Before the advent of the DCIPFV, children aged 5 to 17 were commonly evaluated in the Miami Dependency Court by a court-based unit of forensic psychologists to assist in child treatment and permanency planning. Evaluation reports filed with the court provided information such as a child's level of cognitive functioning and made recommendations for community services and therapy, but they did not address issues of exposure to violence.

The DCIPFV expanded evaluations of dependent children to improve understanding of the nature, extent, and impact of violence in children's lives. Few measures exist to assess the extent to which children are exposed to violence.¹⁵ Because no appropriate measure of exposure to domestic violence was found for maltreated children in the court system, the DCIPFV has designed a structured interview to assess their exposure. The interview, carefully

constructed by a team of experienced forensic psychologists, includes questions regarding the kinds of violence between adult caretakers observed by a child at home and the nature of the child's responses to conflicts at home.

In addition, the DCIPFV has begun administering a modified version of an existing questionnaire on community and domestic violence to parents regarding their children's experiences. The interviewer instructs parents to respond from the perspective of their children's experiences. Because of its potential to incriminate parents/caretakers and expose them to court-imposed sanctions, including termination of their parental rights, this interview is optional. Parents may choose not to respond to questions about their children's exposure to domestic and community violence. The DCIPFV considers this interview, based on a measure called "Things I've Seen and Heard,"¹⁶ an effective indicator of violence in the child's environment. The information enhances the ability of the court to evaluate children's safety and provide resources to heal and protect them.

In the program's first year, as part of its efforts to determine the rate of co-occurring child maltreatment and domestic violence, the DCIPFV evaluated all children aged 5 to 17 in one division of Miami's Dependency Court upon removal from home. These assessments indicated that 50 percent of the children were exposed to high levels of interparental violence, including punching, beating, kicking, biting, and use of weapons.¹⁷ Sadly, most of these children themselves suffer from more than one form of maltreatment. Data from the first year of the DCIPFV's child assessments indicate that as many as one-half of the children who are in dependency court because of serious maltreatment are also exposed to severe acts of violence on a regular basis.¹⁸ More than 70 percent of these children are neglected and as many as one-half of these are emotionally or physically abused.¹⁹ In addition to protection, these children need early intervention to steer them away from later delinquent behavior. The first longitudinal study on the long-term effects of maltreatment showed that abused children are much more likely to engage in delinquent or violent behavior as adolescents or adults. If a child is abused or neglected, his or her probability of arrest as a teen increases 53 percent, of arrest as an adult increases 38 percent, and of arrest for a violent crime increases 38 percent.²⁰ The courts and the child welfare system have not traditionally recognized that efforts to protect abused and neglected children need to include asking questions about exposure to violence and intervening early to ameliorate the risk of delinquency and other harmful effects. The DCIPFV seeks to remedy this omission.

ASSESSING BABIES AND TODDLERS

Through the efforts of the DCIPFV, we are learning that even infants and toddlers can be harmed by exposure to violence. Courts have usually missed an opportunity for meaningful intervention by not eliciting information from these children until they could respond verbally to questions in forensic interviews. To understand the consequences of co-occurring maltreatment and interparental violence exposure for these children, courts must begin to ask questions about even the youngest children that come before them to ensure that proper services are provided. Courts can access community- and school-based resources to help children overcome identified deficits. It is especially critical to address the needs of the very young, as children under the age of 6 constitute nearly one-third of all children nationwide in the foster-care system.²¹ Evaluating infants and young children makes it possible to learn about their unmet developmental and cognitive needs and to intervene before violence has irreversibly affected their development. Such early intervention gives children an opportunity to develop at an appropriate rate; delays can make problems much more difficult to treat.

In the first effort to systematically examine developmental functioning and treatment needs of maltreated and violence-exposed young children, the DCIPFV's Prevention and Evaluation of Early Neglect and Trauma (PREVENT) initiative is developing a program to evaluate all infants, toddlers, and preschoolers who are found dependent by the court. During assessment sessions in a playroom setting, parents and children are videotaped engaging together in a number of tasks. Bonding and attachment are assessed, as are the child's developmental and cognitive functions. PREVENT has shown that observing these children with their caretakers and allowing them to speak through their actions can reveal a great deal about their development and need for safety and security.²² Preliminary data from PREVENT reveal that an astounding number of these children experience difficulties at the most basic levels of thought and speech development. Almost 70 percent of the maltreated young children seen through PREVENT suffer from significant delays in cognitive and language development. These delays place them at serious risk of an inability to learn, to express their thoughts and needs, and to understand their worlds. Without intervention, these children may develop social problems as well as learning deficits by the time they reach school age.

Observations of young children also reveal that even in infancy, many children exposed to domestic violence appear uninterested in adults, unable to play, and unable to explore the world around them. Many of the children examined thus far exhibit signs of traumatic stress, includ-

ing withdrawn behavior, fearfulness, and sadness.²³ Parents often do not understand these children, whose needs are significant and complex, leading to problems in the parent-child relationship.²⁴ Innovative models for therapeutic intervention with very young children and their parents have informed the DCIPFV's most recent initiative to assist this population.²⁵ The DCIPFV is currently developing a dyadic treatment model to help cultivate an appropriately supportive relationship between these very young children and their victimized parents/caretakers. This model will also strengthen the critically important bond between the nonabusive parent and the child—a bond that serves as the foundation for the promotion of the child's well-being and healthy developmental progress.

IMPLICATIONS FOR POLICY AND PRACTICE

The evidence of a staggering rate of co-occurrence of child maltreatment and domestic violence in families involved in the child welfare system demands important decisions with respect to policy and practice in the justice system. If we do not acknowledge that all children are at risk of harm from exposure to violence and that dependent children face a significantly higher risk, we cannot protect our children or help them heal. Courts must begin to think and ask about children of all ages as a matter of course. Violence in children's lives can breed more violence. The trauma inflicted on these children by the adults in their lives must be revealed, acknowledged, and treated. If it is not, society and its children will suffer the consequences.

In the dependency system, the knowledge of the dynamics of family violence and child development must inform decisions relating to child removal, charging parents, custody, and visitation. The system must be redesigned to identify domestic violence in the family and to provide the support and services necessary for parents to decrease the violence in their lives. There is no question that advocacy services for battered mothers are essential. In the child welfare system, the mother traditionally has not been viewed as a victim of violence, but rather as someone who had failed to protect her children by not leaving a violent relationship. The child welfare system must understand, however, that both the mother and the children have the same overriding need: to be safe. Interventions that increase the safety of the mother can, in many instances, also increase the safety of her children.

Initial aggregate data from the DCIPFV (gathered from confidential reports by mothers to advocates in court) reveal that more than one-half of the mothers who come to court after losing custody of their children on grounds of abuse and neglect suffer from severe domestic

violence.²⁶ They frequently fear for their own lives as well as those of their children. Hundreds of women have accepted services from DCIPFV advocates. Anecdotal accounts strongly suggest that it is possible for such meaningful intervention to help children and their mothers stay safe and together.

The DCIPFV is helping to change the child welfare system's perspective from one that always views mothers as perpetrators to one that sees that they are often victims doing their best to protect their children. The greatest strength our battered mothers possess is their ability to provide for, nurture, and parent their children. When asked, battered mothers say that their children are the reason they decide to stay with their abusers, and, when they see them harmed, their children are the reason that they ultimately leave. Mothers like Mary Jones work to keep their children safe every day. That justice system participants may not always understand their methods, or that their methods are not always successful, does not mean they are failing to do the best that they can do. Child welfare and justice system participants must realize that parental efforts are enormously important to the health and well-being of their children. If we do not ask about mothers' victimization, we will miss valuable opportunities to intervene and engineer more positive outcomes for both abused children and their battered mothers. If we ignore the efforts that mothers make to keep their children safe, we will deny them one of the most important and powerful strengths in their lives and also risk depriving their children of the most important person in their lives. So many of these mothers have no reason to believe in their strength. They are humiliated, demeaned, and violated. It is important to listen to them and their children and to recognize their heroism.

The DCIPFV's work and a growing ability to understand the lives and strengths of these mothers has led to a true paradigm shift. This shift has been enhanced by the growing collaboration, led by the judiciary, between child protection and domestic violence systems. The effect of judicial leadership in bringing these parties together to work for the best interest of children cannot be overestimated. Judges should use every opportunity to initiate court and systemic reform. We must find new ways to listen to and observe mothers like Mary and their children, even the youngest, to give them a voice and an opportunity to heal.

NOTES

1. Jacquelyn C. Campbell et al., *Risk Factors for Femicide Among Pregnant and Nonpregnant Battered Women*, in EMPOWERING SURVIVORS OF ABUSE: HEALTH CARE FOR BATTERED WOMEN AND THEIR CHILDREN 91 (Jacquelyn C. Campbell ed., Sage Publications 1998).
2. JILL M. DAVIES ET AL., SAFETY PLANNING WITH BATTERED WOMEN: COMPLEX LIVES/DIFFICULT CHOICES 25 (Sage Publications 1998).
3. NATIONAL RESEARCH COUNCIL, UNDERSTANDING CHILD ABUSE AND NEGLECT 5 (National Academy Press 1993).
4. CHILD VICTIMS PROJECT, NATIONAL COUNCIL OF JUVENILE & FAMILY COURT JUDGES, MODEL COURTS STATUS REPORT (National Council of Juvenile & Family Court Judges 1997-98).
5. DADE CHILDREN'S PARTNERSHIP, THE CHILDREN'S REPORT CARD 9 (United Way & Children Servs. Council 1996).
6. U.S. Census Bureau, United States Census (1990).
7. Anne Appel & George W. Holden, *The Co-Occurrence of Spouse and Physical Child Abuse: A Review and Appraisal*, 12 J. FAM. PSYCHOL. 578-99 (1999).
8. Murray A. Straus & Richard Gelles, *Societal Change and Change in Family Violence From 1975 to 1985 as Revealed by Two National Surveys*, 48 J. MARRIAGE & FAM. 465-79 (1986).
9. Randy H. Magen et al., *Identifying Domestic Violence in Child Abuse and Neglect Investigations*, at cwolf.uaa.alaska.edu/~afrhm1/fv_paper.html (visited Nov. 30, 2000).
10. Jeffrey L. Edleson, *Children's Witnessing of Adult Domestic Violence*, 14 J. INTERPERSONAL VIOLENCE 839-70 (1999).
11. Susan Schechter & Jeffrey L. Edleson, In the Best Interest of Women and Children: A Call for Collaboration Between Child Welfare and Domestic Violence Constituencies (unpublished paper on file with the *Journal of the Center for Families, Children & the Courts*).
12. When a child abuse hotline call is assigned to the cooperating child protection investigative unit, mothers are screened by investigators for domestic violence and referred to the DCIPFV for services.
13. DCIPFV advocates approach mothers in courtrooms for screening. Those mothers screening positive are offered services.
14. Gregory L. Lecklitner et al., *Promoting the Safety of Abused Children and Battered Mothers: A Model Dependency Court Intervention Program*, 4 CHILD MALTREATMENT 175-82 (1999).
15. John E. Richters & Pedro Martinez, *The NIMH Community Violence Project: Children as Victims of and*

Witnesses to Violence, in CHILDREN AND VIOLENCE 7–21 (David Reiss et al. eds., Guilford Press 1993).

16. *Id.*

17. Neena M. Malik, Dependency Court Intervention Program for Family Violence: Initial Findings From the First Year of the Program (Dec. 15, 1998) (unpublished paper presented at Community Coordination Conference on Domestic Violence and Child Abuse).

18. Neena M. Malik et al., Multiple Forms of Family Violence and Functioning in Abused and Neglected Children (Apr. 19, 1999) (unpublished poster presented at the Biennial Meeting of the Society for Research in Child Development).

19. *Id.*

20. Cathy Spatz Widom, *The Cycle of Violence*, 244 SCIENCE 160–66 (1989).

21. Robert M. Goerge & Fred Wulczyn, *Placement Experiences of the Youngest Foster Care Population: Findings From the Multistate Foster Care Data Archive*, 19 ZERO TO THREE 8–13 (Dec. 1998/Jan. 1999).

22. Similar evaluations of older children revealed their needs, strengths, and the extent of their exposure to violence.

23. *See* Malik, *supra* note 17.

24. Theodore Gaensbauer, *Developmental and Therapeutic Aspects of Treating Infants and Toddlers Who Have Witnessed Violence*, 17 ZERO TO THREE 19–21 (Apr./May 1996); Betsy M. Groves, *Children Without Refuge: Young Witnesses to Domestic Violence*, 17 ZERO TO THREE 31–32 (Apr./May 1996); Marva L. Lewis, *Trauma Reverberates: Psychosocial Evaluation of the Caregiving Environment of Young Children Exposed to Violence and Traumatic Loss*, 17 ZERO TO THREE 21–28 (Apr./May 1996).

25. Gaensbauer, *supra* note 24, at 19–21; Groves, *supra* note 24, at 31–32; Lewis, *supra* note 24, at 21–28.

26. *See* Malik, *supra* note 17.